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TELEGRAM

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ACTION ARA-00

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ACTION OFFICE CO-02  
INFO FILE-01 00-01 PPC-01 SSE-01 DAND-02 PE-03 EC-02 VE-02  
DCEN-01 REG-01 PH-02 NCO-01 LARA-01 /021 A3 RD

INFO LOG-00 ADS-00 AIO-00 INR-07 DIC-02 CIAE-00 H-01  
IO-10 NSCE-00 NSAE-00 HA-09 L-03 CTME-00 TRSE-00  
PH-10 PA-01 CMB-01 INM-07 INRE-00 USIE-00 JUSE-00  
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FM AMEMBASSY BOGOTA  
TO SECSTATE WASHDC 3304  
INFO DEA HQS WASHDC  
DIA WASHDC  
AMEMBASSY CARACAS  
AMEMBASSY PANAMA  
AMEMBASSY QUITO  
AMEMBASSY LIMA

CONFIDENTIAL BOGOTA 02503

E.O. 12356: DECL: OADR  
TAGS: KJUS, PHUM, PGOV, CO  
SUBJECT: CIVILIAN JUSTICE AND THE MILITARY: RECENT  
RULINGS, ACTIONS AND THE MEDINA SANCHEZ CASE

REF: A) 88 BOGOTA 18288 AND PREVIOUS; B) BOGOTA 2322

SUMMARY:

1. (U) THE SUPREME COURT RULED THAT TWO MILITARY OFFICERS SHOULD BE TRIED IN CIVILIAN COURTS FOR ACTS UNRELATED TO THEIR DUTIES. THE COURT ALSO DETERMINED THAT THERE WAS INSUFFICIENT EVIDENCE TO PURSUE A CRIMINAL INVESTIGATION OF THE NATIONAL POLICE FOR ALLEGEDLY OBSTRUCTING THE JUDICIAL POLICE. AND, CONTRARY TO PREVIOUSLY REPORTED PRESS STATEMENTS, NEITHER THE SUPREME COURT NOR THE ATTORNEY GENERAL ARE OPENING INVESTIGATIONS INTO CHARGES AGAINST FORMER HEAD OF THE NATIONAL POLICE GENERAL JAIME GUILLERMO MEDINA SANCHEZ. THE CHARGES WERE CARRIED THE WEEK OF FEBRUARY 13 IN "TIME" MAGAZINE. END SUMMARY

CIVILIAN TRIALS FOR OFFICERS IN SEGOVIA CASE

2. (U) THE COLOMBIAN SUPREME COURT RULED FEBRUARY 14 THAT TWO COLOMBIAN OFFICERS (ONE ARMY AND ONE POLICE) SHOULD BE TRIED IN CIVILIAN COURTS. THE CHIEF OF THE ARMED FORCES (THE NATIONAL POLICE ARE PART OF THE DEFENSE MINISTRY), GENERAL BOTERO, SAID THE ARMED FORCES WOULD ABIDE BY THE RULING. THE TWO LIEUTENANT CORONELS WERE COMMANDING THEIR RESPECTIVE UNITS IN THE TOWN OF SEGOVIA, ANTIOQUIA WHEN A GROUP OF MEN DROVE INTO TOWN AND MASSACERED 41 PEOPLE (REF A). A CIVILIAN JUDGE HAD ISSUED ARREST WARRANTS ACCUSING THE OFFICERS OF PASSING OUT INTIMIDATING PAMPHLETS IN THE TOWN JUST BEFORE THE MASSACRE. SEVERAL LOWER OFFICIALS WERE REMANDED TO MILITARY COURTS BECAUSE THEY WERE SIMPLY CHARGED WITH NEGLIGENCE IN THEIR DUTIES.

3. (U) COMMENT: SUPREME COURT DECISIONS IN COLOMBIA DO NOT HAVE THE SAME FORCE OF LAW AS THEY DO IN THE US, AND DO NOT APPLY BEYOND THE SPECIFIC CASES DEALT WITH. HOWEVER, THIS OPINION IS IDENTICAL TO A PREVIOUS OPINION AND TRACKS EXACTLY WITH THE CONSTITUTION ART. 170: CASES OF OFFENSES COMMITTED BY MILITARY PERSONS IN ACTIVE SERVICE, AND THAT RELATE TO THE SERVICE ITSELF, SHALL BE TRIED BY COURTS MARTIAL OR MILITARY TRIBUNALS.

IN CONFORMANCE WITH PRESCRIPTIONS OF THE MILITARY PENAL CODE.) DESPITE THE CLEAR WORDING OF THE CONSTITUTION, THE MILITARY HAS TRADITIONALLY CLAIMED JURISDICTION OVER ACTIVE MEMBERS FOR ALL CRIMES, WHETHER RELATED TO THE SERVICE OR NOT. BOTERO'S ACCEPTANCE OF THE COURT'S RULING WOULD SEEM TO CLEAR THE WAY FOR CIVILIAN TRIALS BASED ON CHARGES PENDING AGAINST OTHER OFFICERS IN OTHER CASES. END COMMENT

NO MERIT IN CONFLICT BETWEEN JUDICIAL AND NATIONAL POLICE

4. (U) THE HEAD OF JUDICIAL POLICE, EDUARDO LOZANO, SENT INFORMATION TO THE SUPREME COURT AND THE ATTORNEY GENERAL CLAIMING THAT THE NATIONAL POLICE HAD OBSTRUCTED INVESTIGATIONS BY THE JUDICIAL POLICE. HOWEVER, ON FEBRUARY 15, THE SUPREME COURT RULED THAT THERE ARE NO GROUNDS FOR INITIATING A CRIMINAL INVESTIGATION AGAINST THE FORMER HEAD OF THE NATIONAL POLICE, GENERAL MEDINA SANCHEZ. (NOTE: THE JUDICIAL POLICE WERE CREATED IN THE PENAL REFORM OF JULY 1987; THEY WORK DIRECTLY FOR JUDGES OF CRIMINAL INVESTIGATION AND ARE ADMINISTERED BY THE JUSTICE MINISTRY. THE NATIONAL POLICE WORK FOR THE DEFENSE MINISTRY.) THE PRESIDENT OF THE PENAL CHAMBER OF THE SUPREME COURT TOLD EMBASSY THAT HE WAS DRAFTING A LETTER TO THE ASSISTANT ATTORNEY GENERAL (PROCURADOR) IN CHARGE OF OVERSEEING THE NATIONAL POLICE SIMPLY STATING THAT THE SUPREME COURT FOUND NO MERIT IN LOZANO'S CHARGES. THE ASSISTANT AG THEREUPON TOLD US HE HAD NO PLANS TO PURSUE A DISCIPLINARY INVESTIGATION IN THE MATTER. ALL KEY PLAYERS IN BOTH ENTITIES MET FEBRUARY 16 AND ANNOUNCED THAT THEIR PROBLEMS HAVE BEEN RESOLVED.

NO INVESTIGATIONS BASED ON "TIME" ARTICLE

5. (U) LOCAL PRESS ACCOUNTS HAVE BEEN CONFUSED OVER WHAT, IF ANY, JUDICIAL PROCEEDINGS ARE BEING TAKEN AGAINST FORMER NATIONAL POLICE CHIEF GENERAL MEDINA SANCHEZ FOLLOWING "TIME" MAGAZINE'S ACCUSATIONS THAT HE HAD BEEN FIRED BECAUSE HE WAS SUSPECTED OF NARCOTICS CONNECTIONS. EMBASSY CONTACTED BOTH THE SUPREME COURT AND THE OFFICE OF THE ATTORNEY GENERAL AND FOUND THAT, CONTRARY TO PRESS STATEMENTS AS REPORTED REF B, NEITHER HAS ANY PLANS TO OPEN INVESTIGATIONS BASED ON THE INFORMATION PUBLISHED IN "TIME." MEDINA DID, HOWEVER, PRESENT A LETTER TO THE PRESIDENT OF THE PENAL CHAMBER OF THE COURT STATING THAT HE WOULD COOPERATE IN ANY INVESTIGATION IN ORDER TO CLEAR HIS NAME.

6. (U) A TELEVISION NEWS DIRECTOR TOLD PAD FEBRUARY 16 THAT THE MEDINA SANCHEZ CASE WAS NOT GOING TO GO AWAY SOON. HE SAID THE PRESS HAS OTHER INFORMATION ON HIM AND EXPECTATIONS ARE THAT THE CASE WILL CONTINUE TO UNRAVEL.

[REDACTED] HERE TOLD PAD THAT MEDINA OWNS A LUXURY APARTMENT IN NORTHERN BOGOTA THAT IS WELL BEYOND THE MEANS OF A CHIEF OF THE NATIONAL POLICE. [REDACTED] ALLEGED THAT MEDINA GAVE A LETTER OF RECOMMENDATION TO A LADY FRIEND OF HIS THAT HELPED HER OBTAIN A POSITION IN THE INTERNATIONAL BANK OF CREDIT AND COMMERCE (IBCC) IN NASSAU, A BAHAM WITH A REPUTATION FOR MONEY LAUNDERING. [REDACTED] ATTRIBUTED THE NEGATIVE INFORMATION ON MEDINA SANCHEZ THAT LED TO HIS FALL AS ORIGINATING WITH THE MEDELLIN CARTEL IN AN ATTEMPT TO HURT THE CALI CARTEL, TO WHOM MEDINA IS ALLEGED BE CONNECTED. [REDACTED] NOW EXPECTS THE CALI CARTEL TO RETALIATE BY RELEASING INFORMATION CONNECTING CERTAIN POLICE OFFICIALS IN MEDELLIN TO THE MEDELLIN CARTEL.

7. (U) COMMENT: [REDACTED] ALLEGATIONS ARE JUST THAT, AND MAY NOT AMOUNT TO MUCH. WE HAVE HEARD ANOTHER

UNITED STATES DEPARTMENT OF STATE  
REVIEW AUTHORITY: THEODORE SELLIN  
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VERSION WHICH INVOLVES A GIRL, A LOCAL BANK AND FRAUD.  
IN ANY CASE, IT APPEARS THAT THE MEDIA WILL TRY TO KEEP  
THIS ISSUE ALIVE. MEANWHILE, THE GOVERNMENT HAS PURGED  
ITSELF OF A POSSIBLE BAD APPLE AND APPEARS TO WANT TO  
PUT THE ISSUE BEHIND IT AND GET ON WITH IT  
ANTI-NARCOTICS EFFORTS.  
MCNAMARA

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